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Remarks
Phillips



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with notes of
S. F. Phillips

REMARKS

OF

MR. S. F. PHILLIPS, OF ORANGE,

In the House of Commons at the Called Session of the Legislature, January, 1866, in Committee of the Whole upon the Question of admitting Negro Evidence in Courts of Justice.

CORRESPONDENCE.

RALEIGH, February 20, 1866.

Hon. S. F. PHILLIPS, *Dear Sir*:

The undersigned having listened with much pleasure to your speech in committee on the whole, in the House of Commons, on the Freedman's Code, and being satisfied that it will meet the views of a vast majority of the people of North Carolina, and will be of great benefit in assisting our people to come to a correct understanding of our great political changes—respectfully ask of you to furnish a copy of the same for publication.

LEWIS THOMPSON,	LUKE BLACKMER,
J. F. HOKE,	R. Y. MCADEN,
J. W. CAMERON,	ED. C. YELLOWLEY,
JOS. H. HYMAN,	WM. J. WILSON,
W. A. CALDWELL,	JAS. C. HARPER,
W. H. WHEELER,	M. L. HOLMES.

RALEIGH, Feb. 28. 1866.

GENTLEMEN.—In reply to your note of the 20th inst. I submit for your disposal such a collection of the remarks made by me in debating the question upon Negro testimony as my memory enables me to make.

For the honor which you have done me in this connection, allow me to express to you my sincere acknowledgments.

Very Respectfully,
S. F. PHILLIPS.

To LUKE BLACKMER, Esq., and others of the House of Commons.

In the House of Commons, upon the 31st day of January, 1866, "a bill concerning negroes," &c., was under consideration in committee of the whole, Mr. Rayner in the chair. The 11th section of the bill having been read, to wit:

"That Persons of color shall be capable of bearing evidence against a White Person in con-

troversies at law and in Equity where the rights of person or property of Persons of color shall be put in issue, and would be concluded by the judgment or decree of court, and also in the pleas of the State where the violence, fraud or injury alleged shall be charged to have been done by or to Persons of color. In all other civil and criminal cases such evidence shall be deemed inadmissible, unless by consent of the parties of record."

Mr. McNair moved to strike it out, and the motion was successful. Upon application by Mr. Phillips, however, the resolution was at once informally reconsidered, and thereupon he proceeded to address the Committee. What appears here is the substance of his remarks during the debate, which extended through several days.

I had not expected that a motion to strike out this section would be successful.

I had hoped that the Committee would silently come to a different conclusion. I had hoped that without entering upon a discussion of that class of arguments which are generally brought to bear upon legislation, the policy which presses us would be so clear that debate would be waived, and this provision passed into a law by a vote almost universal.

Confessing some disappointment in this respect, I make my acknowledgments to the Committee for that reconsideration which allows the matter to be debated.

The question before us is, — Whether *Negro testimony* shall be heard in our courts of justice in all cases where a Negro is interested that it shall be heard, even although the other party to the suit be a White person. It is not proposed in this bill to hear Negro testimony where the parties are exclusively White. Nor is it proposed that in the cases where he is heard he shall necessarily be believed. In no case is his evidence to go for more than it is worth. He

is to be believed only in case the Magistrate, or the Jury, or the Judge shall deem him worthy of being believed. The capacity of those tribunals, especially that of the jury, for sifting truth from untruth is with us matter of long standing satisfaction and boast. To them it is proposed to submit the credibility of the testimony of Negroes, and that without the smallest restriction upon those established rules of procedure, that long practiced and powerful common sense, and that severe scrutiny which mark investigations in our courts of justice. The Negro is not to be imposed upon our courts as one who is worthy of being believed:—it is only said that he shall be heard in all cases where one of his own color is interested in his testimony. Those who are to hear him are to be White men, and White men exclusively. In criminal cases he is first required to state his complaint to a solicitor; it is then to be canvassed before a grand jury, and only after his statements have secured credit before these preliminary tribunals, is he to be admitted to stand upon the witness box in a court the whole of whose machinery judge, jury and bystanders is composed of White men, then and there to undergo cross examination as to the truth of his statements. In civil causes the machinery is somewhat less complicated, but powerful enough at all events, when accompanied by the natural effects of race and color, to take away all reasonable chances of any White man's receiving injury therefrom. That Negro testimony, under such circumstances, is to pervert the course of justice in North Carolina, is to me a proposition destitute of all foundation. I venture to say that with these surroundings, these checks and balances, the testimony of Negroes is never to affect a verdict in North Carolina except where it ought to do so,—and that if ever hereafter such testimony is to prevail with a jury, that result will be under circumstances that will command the applause of all good men. Under the embarrassments that must surround their statements, these can never prevail with judges and juries except truth demands that they shall; and that truth shall ever fail of her legitimate triumphs in our tribunals is to the interest of no good citizen of the State—can be the wish of no good citizen.

Entering very fully into that feeling of confidence and admiration for the working of our system of distributive justice, which long observation of its results is well calculated to inspire, I am thoroughly impressed with a belief that the fears expressed in regard to the present proposition are but *panic fears*. I do not believe that they prevail to any considerable extent with the quiet and gallant people that fills this State. One cannot reflect upon the *gauntlet* as it were, which the negro witness has to run before he can secure credence in our courts

without being overcome with a sense of the ludicrous upon recurring to the apprehensions which are said to exist as to the tremendous consequences of its admission. With all my respect for this Assembly, I yet have not conceived so exalted an estimate of its wisdom as to conclude that it is our duty to establish ourselves as *guardians* in this matter, over the good citizens whom we have left in our respective counties; or that it will be decent in us to declare to them upon our return from this place, that such was our distrust of their intelligence or integrity,—that although grave reasons called upon us to declare the evidence of Negroes competent in certain cases—we did not dare to expose them to *its temptations*! Let other gentlemen in this matter speak for their own constituents—as for me, I will never consent to use such language to the people of Orange!—Who are we that we can with propriety assume such airs before the people of North Carolina, trained as they are by the experience of many years, and strengthened by those habits of mind which grow from generation to generation for the investigation of such questions as arise in our courts of justice? Having been brought by other reasons, to conclude that this testimony ought to be admitted, I confess that I am shaken in my purpose by no apprehension that any one of my constituents is ever to be injured by it in courts controlled exclusively by other of my constituents. Nor in this respect do I set my constituents above those of any other gentleman upon this floor.

If then the white man cannot be injured by the admission of this evidence, I may be permitted, as another step in this cause, to inquire why may not the Negro have the satisfaction of having his complaint heard in our tribunals? I submit as a reasonable opinion in the premises that the treatment of the Negro, which will be found wisest for North Carolina, is that treatment which proceeds upon the supposition that he is possessed of human nature. To that nature when in trouble there is nothing more consoling and assuring than to have the complaint patiently heard by those who have the power of giving redress. It is not necessary that there shall always be a favorable decision after such hearing—the hearing itself affords consolation and satisfaction! That is a great part of what is insisted upon here. Whether relief will follow must depend upon the truth or falsehood of the statement. If it be untrue, a thousand tests of such untruth which do not exist in the case of a white man will cause it to fall harmless. If true, all those precious interests which demand, and in some degree guarantee, the final triumph of truth will rejoice over its reception and its success. Meanwhile in having appointed a hearing for the complaints of 300,000 human beings within your dominion you have wisely

created a *valve* for the escape of much ill-temper which unprovided for in this way must result in the insecurity and disturbance of the public peace. In this connection, I call your earnest attention to the wise suggestions of the commissioners who have submitted this bill for our consideration.

Nothing can be more certain than that it is for the general good of society,—for the repose of all classes of citizens, that every grade of men shall have free access to the common fountains of justice. If they are debarred from these, you provoke a fever in their blood, the results of which, to the State, must be only evil and that continually.

But it is confidently urged that if this privilege be conceded others will necessarily or naturally follow, and that a plea for Negro testimony will prove the sure forerunner of other pleas for Negro jurors, Negro voters, Negro judges, Negro legislators and a general Negro equality. I own here that it is only by a great inadvertance that the granting of a right to testify can be spoken of as pointing to a grant of the privileges just enumerated, as for instance, to that of voting, or sitting as a juror. It is very certain that the distinction between these classes of rights is ~~very~~ marked and substantial.

Whether the right to testify be a natural right or not I do not care, in this connexion to decide. It certainly partakes of some of the characteristics of natural right. Whatever it be I may safely say that it is *not* a political right! Giving evidence certainly confers no political power. Depositions of Frenchmen taken at Paris, and of Russians taken at Odessa, have sometimes swayed verdicts within the United States, but this circumstance has never suggested to our most jealous statesman a fear lest such an admission might lead to there witnesses being permitted to vote, or to sit upon our juries. Many classes of residents amongst us have long exercised this right without exciting any apprehension that thereby they may come to think themselves worthy of voting or of giving verdicts. Negro-testimony affords no shadow of a claim for Negro suffrage or Negro equality. The gift of a right merely private does in no sense point towards the yielding of those rights which are political.

I enter fully into the counsels of those who define this to be a government of White men. For one I propose that none but White men shall participate in the duty and distinction of controlling this government. I maintain that the right of suffrage shall be theirs exclusively—as also the duty of exercising public employment and the duty of distributing justice.—Every public place—from the jury box to the chair of the President, must be a place for the White man alone. It is obvious that so long as this continues to be so, the government will be

the White man's government. It will be so none the less because within his dominion he permits Blackmen to live and labor, or because he may guarantee to him the protection of that life and the fruits of that labor. If in his wisdom he believe it to be for the advantage of the whole community—whether from permanent policy or for the present distress—to appoint one or another of the officers of the government to audit and settle the grievances of the Negro whether these be caused by other Negroes or by the ruling class—does this in any way affect the question whether ours is a government of White men? I ask whether ours be more likely to remain such a government, showing its willingness to administer the ordinary and universal rules of justice? Of these rules I know of none more certain than that which allows to all classes the right of being heard before the tribunals of justice. I beg permission in this connection to remind gentlemen that the Almighty God has much to do with the stability of systems of government. I am informed of no line of conduct more likely to attract the favor of the great Author of justice, than the exhibition of willingness by the rulers of a country to do equal justice to all of its inhabitants. He hears us all; who then shall we refuse to hear any? How can we contract degradation by listening to those to whom he listens? How can we go to our prayers to the great Father of all men, conscious that among our fellow men there are those whose prayers we will not hear? What a mained and halting justice is this that we are invited to administer to the freedman in denying him the right of drawing his evidence from that class to which he belongs, and with which most of his life must be passed. I confess that I am so thoroughly impressed that this is to deny him any efficient hearing in our courts that I have not scrupled in these remarks to speak of his other right of access thereto as in effect *nothing*? I submit that in practice it will be next to nothing.

Passing to another class of arguments in support of this proposition, I beg to submit that among the lessons of that Philosophy which teaches by example, there are some valuable in the present connection. That mighty Republic and Empire, which as has well been said, still rules the world by her reason, although her arms are *rust*,—Rome! had questions of policy to decide, not unlike those that have come before us. She too, had her classes of citizens and freedmen, and her clear distinction of rights into political and private. It is well that we can escape from the hearts and prejudices that necessarily surround this question, considered in reference to ourselves exclusively, and survey it in connection with a great example buried beneath twenty centuries. I have made no ref-

erence to authorities upon this matter of late, but speak under general impressions left by former reading. Through all the ages of her liberty and good government Rome made no more difficulty in admitting her freedmen to a participation in all private rights than she did in excluding them from those which were political. Conscious of her deep interest in the promotion of a secure and hopeful industry among all classes of her inhabitants—solicitous for her reputation as a dispenser of justice among those classes, Rome communicated full rights of property and perfect rights of appeal to court to all her freedmen. No less perfect however was their exclusion from the sacred political rights of Suffrage, Office and Intermarriage. Only after her liberty and integrity had departed, were the liberated slaves admitted to a free enjoyment of political privileges.

I confess to some surprise at hearing, in the course of this debate, able and intelligent gentlemen denying that the right to sit upon a jury is a political right. I venture, notwithstanding, to say that it is beyond all reasonable doubt a political right. How important a right of this class it is,—how necessary a bulwark in popular constitutions is entirely familiar to all readers of English or American history; and it will occur to every lawyer to remember that its character as a body of freeholders is almost the only trace remaining in our system of that leading feature in the political philosophy of our forefathers, both here and beyond the seas, which confined all exercise of political power to the freeholder. Nor, can it be said here, any more than at Rome, that the right of marriage in this connection is a private right.—Whatever tends to obscure or to confound the boundaries betwixt two classes, one of which alone is entitled to political rights must itself be of political importance; and however safe we might have been in leaving this question to the ordinary instincts of our citizens,—in laying down severe rules upon it, we have but followed out a principle.

I cannot take my leave of this part of the argument without expressing, what may be implied from that which has been said, that in my opinion it were a wise policy in North Carolina to make a very sweeping alteration in regard to the rules which affect the exclusion of witnesses in our Courts. I am in favor of allowing our juries to hear all the evidence that may throw light upon questions before them, without distinction as to parties to the record, or parties in interest, or persons convicted of infamous offences. I shall take every opportunity of forwarding this policy. It is the policy of the most enlightened nations, and of the most perfect systems of justice. I may add, that as most of the litigation in North Carolina is settled before magistrates, who are in

the habit of hearing all witnesses who can throw light upon the matter in hand, whether parties or not,—this rule is already an established one in this State. I feel confident that it is to the interest of justice here that it shall become universal. I shall not elaborate this view. I will only add that no lawyer can conceive of the universal improvement which civilization has wrought in the material of our juries without being convinced that much of that system by which our ancestors sought to feed jurors as it were by nursing bottles, may well be dispensed with. It is but in accordance with these views that I feel strongly impelled to support the policy of admitting the negro to the witness stand.

I have as yet sought to argue this question upon abstract and universal principles. I regard the conclusions that flow from these principles as certain, and as irresistible. But whatever may be their force, I admit that such is my view of the character of the government under which we live—such is my respect for the opinions of the people of this State and more particularly of those people whom I represent here, that under ordinary circumstances, I would not have been willing to precipitate such legislation upon them—averse to it as I believe them to be. I share the common opinion as to the untruthfulness of the negro. I believe, however, that this defect is not so much due to the fact that he is a negro as to that that he has been a slave. Falsehood and theft have marked the slave in all ages and centuries; they have marked slaves of every race and color. The Roman annalists and poets speak of these as characterizing the Roman slave two thousand years ago, although he was sometimes of that race which now shines in the front rank of civilization, both in Europe and America. I own that I have not arrived at the conclusion that the Negro ought to be admitted to testify without consideration or without some variation of opinion. Starting with an impression that such testimony ought not to be admitted *for the present*, after reflection upon the new system of things around us and an observation of such signs of the times as may be found in the concurrent action of many other Southern States, and in certain remarks which upon important occasions have once and again fallen from the President, I have been convinced that the *speedy* admission of this sort of evidence into our State courts is a political necessity. In my opinion the exigencies of the hour do not admit of the deference and delay usually practiced in regard to great questions newly arisen. In times of great commotion like those around us, all persons who find themselves in public place must take a more than ordinary share of responsibility. This is anticipated by all their considerate constituents. It is said by

gentlemen that they are *too much afraid* of their constituents to be willing to vote for this provision! I have no such emotion in regard to mine. Whatever may come of it, I shall return among them, at least erect and calm. I desire their approbation, but no apprehension of the contrary can shake my purpose to do what I think to be for their advantage. I have such an opinion of them that I believe it to be their will that I shall always give them the benefit of my free judgment upon such matters. I may add that no separation from their confidence in future can extinguish my appreciation of their past kindness; and upon the only view in which my future can be of public interest, it occurs to me, to say that the public spirit of Orange county, as evidenced by its selection of representatives in this Assembly from the foundation of the government, is so great as to assure every one that from among the gentlemen whose humble agent I am here, the county will choose some one at least better prepared than I am to keep upon foot its well established reputation.

The arguments which press this question to an *immediate* solution are of course connected with what is extraordinary in our present position. All will admit that any policy which promises to this State an early extrication from its present unfortunate situation cannot too quickly be inaugurated, and followed up. In looking over the various items which compose our troubles it may well be said that of all that harasses our people with present vexation, and lowers over their future, there is nothing more distressing or portentous than the Freedman's Bureau. I say nothing of it as an expedient for those times when the law was in abeyance and the courts closed. At present however, I profess myself willing to do anything that is honorable which promises its early and final extirpation. As a provision for times in which the civil law can be administered its existence cannot be too greatly deprecated. I am thoughtfully penetrated with horror in contemplating such machinery at full play among a people used to freedom. I speak in the interests of General Government as well as in those of the people of this State. It is not to the interest of public liberty that an institution founded upon such principles, so military, so absolute and for all practical purposes so irresponsible should be successfully administered! If it were so administered much would be done towards sapping the popular conviction that free institutions are the institutions that are best. How bitterly *in this view*, may we say that it is most fortunate that we are threatened with no such results! Never was there an institution upon this soil more odious! Pervading every county, filled in its lower stations, those stations which most generally come in contact with the citizen, by the subordinate officers of the volun-

teer army, by persons who whatever may be their gallantry in war or the respectability of their former lives in times of peace, frequently have but a most meagre acquaintance with the law which they are supposed to administer; but little knowledge of human nature *out of uniform*, and make none of that *allowance* which is essential for justice between the two races in North Carolina;—this Institution, the Freedman's Bureau at once threatens the liberty of the Government which administers, it, and the self respect and manhood of the population that is subjected to its control. Every instinct connected with our own interests, every aspiration for the continuance of the spirit of freedom in our great country demands that at the very earliest moment we set upon foot a policy that shall eradicate it from our soil.

It is a well known vice about all absolute governments, that their oppression of the citizen is altogether irrespective of the character of the principal figure in their machinery. In the case of the Freedman's Bureau it is clear that the community can obtain but little relief from the virtues which are said to mark the character of General Howard; as it is simply impossible that he shall be able in person to regulate or even intelligently superintend the working of this vast machinery. As in all other such arrangements, so here, the subordinate officials who come in contact with the people, are practically absolute and irresponsible. Within certain limits of injustice at least, they may do as they please. Who can afford to appeal from the decisions of the county administrators of this Bureau? Who can think of prosecuting in person, appeals involving the petty sums generally at stake to the officer in command at Raleigh? It is plain, that the counties may be filled with dissatisfaction at repeated cases of injustice, without this becoming known to the Commissioner at our capital. I do not speak of injustice wilfully done; but of injustice done in ignorance, done from inadvertence, done carelessly, done as every thinking person must know that under the administration of such machinery, it is done over and over in every neighborhood in the State. I say in all seriousness and with regret that this institution is well calculated to carry disaffection into rural communities, otherwise disposed to entire loyalty. I say with equal seriousness and regret, that it is by just such expedients,—collateral as it were to the legitimate institutions of the country, and at first intended solely for temporary use and for an abnormal condition of public affairs, that liberty has been undermined in repeated and illustrious cases in history.

Turning this subject over in my mind from the point of view supposed to be taken by the general government, I have found but one reason for continuing this tribunal amongst

us. As long as we exclude the testimony of negroes in cases where negroes are interested—so long there may be good ground, in the view of the people of this country and of the world at large, for maintaining this Bureau.—This is the reason that presses us to *immediate* action upon this matter? I do not say that what we shall do is to bear fruit immediately but I do maintain that the earlier the seed is sown the earlier the beneficial crop of a favorable public opinion will spring up among those to whose judgment our action is submitted. Showing ourselves prepared in behalf of the Negro to make experiments upon our social institutions—prepared to lend a ready ear to all he may say in his own behalf, we so far lay the foundation of an appeal to opinion in the other States and in foreign nations which at last will be irresistible. I hope that I am not misunderstood as referring to any probable effect upon the present Congress. Possibly, such legislation may have some effect even there, but I make no calculation upon that. The present Congress having been elected when the war feeling was at its height in the United States, continues to *campaign* it after the thoughts of their constituents have been turned toward peace. This is not unnatural; at least it is a matter that may be reflected upon with some philosophy. Except with regard to such as lay claim to be called statesmen, it is not surprising that members of this body should move on in the direction given by the impulse received at the commencement of their political existence. I turn from it without much concern to its principals, the People of the United States. It is upon their convictions that I would operate. It is upon them that I rest those hopes which I enjoy of seeing once more the United States what the United States once was—or improved rather upon what it once was by the effect of this great disaster—from our share of which we are now hoping to emerge. The present Congress is but a cloud which hangs over us. That there should be such after the recent storm was to be anticipated. In the meantime however, I shall not consent to direct my own course or that of the State, with any reference to *clouds* which are drifting across this wintry sky. I will await the reappearance of those stars that behind and above them.

I cannot believe it probable that we shall be rid of the Freedman's Bureau before we have passed a law like that before us. Until we shall have passed such a law, *we shall not have done our part* towards ridding ourselves of that Bureau! I am unable to see how we can well ask to have the freedman subjected to our State tribunals without promising that he shall be heard in those tribunals. I have imagined gentlemen who oppose this bill transported to London or to Paris, and there engaged in argument

with intelligent lawyers, or public men of England or France upon this grievance of the Freedman's Bureau. In such debates I have been at a loss to conceive of the reply which North Carolinians would make if the foreigners sustained the tribunal upon the plea that in it negro evidence is heard in controversies between persons of the different races, whereas in the State Courts it is excluded. The British and French Empires contain within them races false to the lowest standard of modern example—races separated from the ruling class by religion as well as by blood and color,—yet no objection is made to hearing their evidence in courts of justice. I submit, that in such discussions, it is eminently proper that we bring ourselves to the bar of public opinion in the Christian world—that opinion which in the most highly cultivated countries has decided such cases as that before us in the manner in which I have endeavored to maintain that it shall be decided.

Of similar, perhaps greater, value are the conclusions of our Southern sisters in this matter. States which were so potent with us *for* ~~war~~ in 1861, may surely have some deference paid to their examples where these lead to peace! With one or two exceptions all the late Confederate States have admitted Negroes to testify under the circumstances here provided for. There is in particular the State of Georgia, with whose views our own have in times of trial been so greatly in accord. It has adopted a provision identical, I believe, with the one now before us. So have Alabama and Mississippi. In Virginia the papers tell us that a provision is favored which goes much farther than ours. In Tennessee, where the radical politicians of the East are credited with a former defeat of this project, a very recent decision in its favor has been arrived at.

But gentleman turn from these examples and quote to us Indiana as worthy to be followed in her policy of excluding the Negro from the witness box. Some change has come over the face of things in North Carolina, when the example of Indiana is claimed as fit to weigh down those of Virginia and Georgia. I am willing to put the case and leave it without comment, excepting the remark that if Indiana has such laws at home it were well for some of her missionaries at Washington to be relieved, and turned over to the domestic field. This is but another instance of the inconsistency of sentimental philanthropy, and must be very far indeed from tempting to imitation.

It is said however that if gentlemen were only convinced that restoration, or even the removal of the Freedman's Bureau would follow the admission of this testimony they would at once give it their favor. They ask with some air of triumph whether such removal has followed the passage of similar laws in the South-

ern States. They refer to programs for restoration as contained in proclamations, or editorials or speeches some months ago, and ask whether the adoption of these programs has resulted in restoration. They represent themselves as entirely out of heart, and say that it will be time enough to act in this matter when we shall have seen good fruit from it in other States, or at least, when we have had proper results from the concessions that we have already made. To what I have already had occasion to urge upon this topic I will only add here that as noble growths are always slow, we have to hope that our tardy progress will result in a restoration perfect and lasting. It is the part of children to be visiting our seed bed every half hour to watch the results of our labor, or at short intervals to *dig up* what has been sown in order to observe whether it have sprouted. No good crop can come of such industry or such continual curiosity. And then if predictions be under consideration it may be well by way of accurately defining our present condition to recall some passages in the Prophtes of the other dispensation as to the condition of the South in any case of restoration. In such event I believe, every acre of land was to be confiscated and the very trees would be too few to bear the bodies of those who should be executed! Our condition is certainly not a joyous one, but it is infinitely better than leading men constantly represented that it would necessarily be—and *that* too under the very circumstances which other persons thought it would be judicious to avoid by some settlement after the close of the campaign of 1864. The consequences which have befallen us when regarded as the incidents to *an absolute subjugation* are surely not very wonderful. The South showed itself *implacable* towards the United States to the very last moment that it was a free agent, and the important results from this color upon its conduct might perhaps have been avoided if those who had its destinies in their hands had made a proper use of that interval which in all great controversies comes between the loss of a cause and the tearing down of its flag. Of all the circumstances of the case that fact has perhaps been as potent as any in producing the evils with which we are afflicted.

I do by no means allude to this in any party spirit. I produce it as an element worthy of being considered in determining the problems around us. Nor in bringing it forward am I actuated by a wish to evade the question so triumphantly urged upon what is thought to be the ill-success of our former policy upon restoration. Upon that point I submit that whilst much that we have wished for has been deferred, on the other hand no little has been accomplished. Is not the machinery of the State once more *manned*, and in general operation?

Is not this a legislature sitting under the civil law; have we not a Governor under the civil law; are not the judges just about proceeding upon their circuits,—and is not the hand of violence and fraud already somewhat in check by the fear of criminal law now about to be set in motion under the wholesome authority of North Carolina? These are things of first rate importance. It is true that the freedman is not wholly subjected to the laws of the State, and that military *orders* throw their shadows over the State tribunals—but a considerable progress may be summed up by saying that where in last September there was no civil law and no civil jurisdiction, now civil law is the rule, and military law is the exception. I believe that what has been done by North Carolina towards restoration has been wisely done, and that the results are in a good degree answerable to the design.

And here I must be allowed to dissent from the position assumed in this debate, that we ought to await President Johnson's express and direct declaration that he will require the admission of this sort of testimony as a prerequisite to reconstruction. By no means! No man who has informed himself upon this question, can doubt that the President expects this boon to be conferred upon the Negro. He has said as much in the course of several conversations, had upon formal occasions, and in this he but represents the views of all conservative men at the North. Is it fit then that we wait to be *commanded* to do this thing? Does it correspond with gentlemen's notions of dignity or good sense to await a *telegram* upon this subject from the President? I confess that my own experience in this matter has inspired me with no great relish for such applications.—The State Convention on the 17th of last October, had less reason to believe that the President required *an actual repudiation* of the war debt than we have at present to know his views upon Negro testimony. I submit then that our *character* demands that we shall use the faculties which God has given to us in discerning the necessities of our situation, and that we shall act in accordance with that discretion without awaiting an application of force. I submit further that a hearty desire to strengthen the President in the position which he has taken as regards these Southern States, will inspire such as wish to co-operate with him to meet his policy half way instead of hanging back as an incubus upon his efforts. Among other reasons which influence me to support this bill is a desire to sustain the administration of ANDREW JOHNSON.

Mr. Chairman, I look forward with great confidence to the speedy coming of a period for us and our fellow-citizens that will be the very reverse of that which hangs over our heads. Nor

do I suffer that confidence to be at all disturbed by the variations we experience in the temperature of any single days occurring as we advance. These may be brighter, or more threatening—but in the meantime what concerns me, is that *the seasons are going forward!* I fancy that it is much the same with the political as with the physical skies. In this month of February we know that the sun is upon his track towards the northern tropic. To day we are enjoying a clear and temperate atmosphere, by to-morrow the weather may be inclement, yet for that no one will doubt that the intervening hours have advanced us towards the breezes, the flowers, the fruits and smiling skies of Spring and Summer. Too minute attention to the rise and fall of the mercury only serves to confound one's judgment of the weather. "He that observeth the wind shall not sow; and he that regardeth the clouds shall not reap." For one sir, I practise myself in looking across this fleeting revolutionary presents to that not distant time when North Carolina shall be taking her part in that Miracle-drama which is now going on upon this continent from shore to shore; when the voices of her

citizens, the hum of her prosperous industry and the clash and clang of machinery in a thousand forms through her borders shall swell the volume of that mighty harmony, that *concordia discors*—which rises to Heaven from the occupations and achievements of this so great a people.

For the present I would have the State consult for the welfare and interest of all within her rule uninfluenced by the hubbub and folly which surrounds her. Having nothing to blush for or repent of in the sad past, I would have her in all calmness and without care await the recognition of her just claims. I recall the eloquent reference by Macaulay to the portrait of Hastings as it hung in the old English Hall—and to the noble motto upon the coat of arms, and pray that hereafter in contemplating the whole course of our State in this revolution past, present and to come, nothing may appear upon it out of character with her old resolution and SERENITY—nothing unworthy of that *MENS ÆQUA IN ARDUIS* of which her recent course furnishes abundant proof.

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